

**STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of:

Agency No. 10-793-L

Jack Strickland and

First State Insurance Agency, Inc.

Respondents.

_____ /

CONSENT ORDER AND STIPULATION

**I.
FINDINGS OF FACT**

1. At all relevant times, Jack Strickland ("Strickland"), was a licensed resident producer pursuant to the Code with qualifications in accident, health, life, property, casualty, and variable annuities. System ID No.099366.
2. At all relevant times, First State Insurance Agency, Inc. ("FSI"), a business organized as a corporation in the State of Michigan, was a licensed resident agency with qualifications in accident, health, life, property, casualty, and variable annuities. System ID No. 0007143.
3. Hereinafter, Jack Strickland and First State Insurance Agency, Inc. are collectively referenced as the Respondents.
4. OFIR commenced an investigation into Respondents' business activities.
5. More specifically, sometime in September 2008, Accelerated Homecare Services, Inc. ("AHSI") commenced a business relationship with Respondents for the purpose of securing commercial and professional liability insurance.
6. AHSI agreed to purchase commercial and professional liability insurance through Respondents' business via Crump Insurance with United National Insurance Company. The total premium amount due for the policy was \$7,695.
7. On or about October 3, 2008, AHSI issued or caused to be issued a check made on AHSI's business account payable directly to Respondents in the amount of \$2,141.13,

which represented the required deposit for the policy. At that time it was agreed that AHSI would finance the balance of the premium due.

8. On or about October 14, 2008, AHSI, through Respondents, entered into a premium finance agreement with Express Premium Finance Company, LLC ("Express Premium") for the commercial and professional liability insurance policy purchased with United National Insurance Company. The total amount financed with Express Premium was \$5,771.25.
9. On or about October 14, 2008, Respondents received \$5,771.25 from Express Premium on behalf of AHSI to forward for payment in full of the commercial and professional liability insurance policy. Respondents failed to forward the funds.
10. Respondents received all funds disbursed by Express Premium and remitted monthly payments to Express Premium. The account was placed in cancellation status on several occasions because Respondents failed to make premium payments when due.
11. Respondents also financed the same policy with a different premium finance company. Respondents forwarded those funds to the insurance company.
12. Respondents either negligently or purposely financed a premium that should not have been financed a second time.

II. CONCLUSIONS OF LAW

1. An agent shall be a fiduciary for all money received or held by the agent in his or her capacity as an agent. Failure by an agent in a timely manner to turn over the money which he or she holds in a fiduciary capacity to the persons to whom they are owed is prima facie evidence of violation of the agent's fiduciary responsibility. MCL 500.1207(1).
2. An agent is prohibited from demonstrating financial irresponsibility in the conduct of business under the Insurance Code. MCL 500.1239(1)(h).
3. Respondents violated Section 1207(1) by financing a premium that should not have been financed a second time.
4. Respondents violated Section 1207(1) by failing to remit all premium money received from Express Premium on behalf of AHSI.
5. Respondents violated Section 1239(1)(h) by failing to keep accurate records and books, or maintaining controls to prevent the same insurance policy from being financed twice.

6. Strickland's violations were known or should have been known by 1 or more of the partners, officers, or managers acting on behalf of FSI and the violations were neither reported to the commissioner nor were any corrective actions taken.

III. ORDER

IT IS HEREBY ORDERED:

1. The Respondents shall immediately **CEASE AND DESIST** from violating Section 1207(1) and 1239(1)(h) while engaging in the business of insurance in the state of Michigan.
2. Pursuant to Section 1244(1)(a), MCL 500.1244, the Respondent Jack Strickland's qualifications to transact business in the lines of Property & Casualty, System I.D. 099366, are hereby **REVOKED**.
3. Pursuant to Section 1244(1)(a), MCL 500.1244, the Respondent First State Insurance Agency, Inc.'s agency resident insurance producer's license, System I.D. 0007143, is hereby **REVOKED**.
4. Pursuant to Section 1244(1)(a), MCL 500.1244, the Respondent Jack Strickland shall **PAY** directly to the State of Michigan a civil penalty in the amount of \$2,500 (two-thousand five-hundred dollars). Upon issuance and entry of this Order, the Respondent will pay the civil penalty as follows:
 - a. Respondent will remit a payment of \$100 upon executing this Order and return both the Order and payment to OFIR.
 - b. Respondent will remit a payment of \$300 with each written report of activities that is due according to dates outlined in paragraph 6.a of this Order.
 - c. Should Respondent default on any payment or any other provision of this Order, all payments are due on demand.
5. Pursuant to Section 249(1), MCL 500.249(1), the Respondent Jack Strickland shall open his accounts, records, documents and transactions pertaining to the business of insurance for examination by OFIR staff, at a reasonable time and date set by OFIR, with or without notice.
6. Pursuant to Section 249(1), MCL 500.249(1), the Respondent Jack Strickland shall subject himself to heightened supervision for a period of two years to ensure that he is transacting business in Michigan in compliance with the Michigan Insurance Code and any other applicable laws and regulations. This includes, but is not limited to the following:
 - a. The Respondent shall make a written report to be submitted quarterly to OFIR certifying that the Respondent is in compliance

with the Michigan Insurance Code. This written report shall itemize all insurance transactions entered into with members of the public.

- i. The first written report for activities conducted July 1, 2011 through September 30, 2011 must be received by OFIR no later than October 15, 2011.
 - ii. The second written report for activities conducted October 1, 2011 through December 31, 2011 must be received by OFIR no later than January 15, 2012.
 - iii. The third written report for activities conducted January 1, 2012 through March 31, 2012 must be received by OFIR no later than April 15, 2012.
 - iv. The fourth written report for activities conducted April 1, 2012 through June 30, 2012 must be received by OFIR no later than July 15, 2012.
 - v. The fifth written report for activities conducted July 1, 2012 through September 30, 2012 must be received by OFIR no later than October 15, 2012.
 - vi. The sixth written report for activities conducted October 1, 2012 through December 31, 2012 must be received by OFIR no later than January 15, 2013.
 - vii. The seventh written report for activities conducted January 1, 2013 through March 31, 2013 must be received by OFIR no later than April 15, 2013.
 - viii. The final written report for activities conducted April 1, 2013 through June 30, 2013 must be received by OFIR no later than July 15, 2013.
 - b. The Respondent shall forward to OFIR copies of any written or oral customer complaints regarding the Respondent within thirty (30) days of receipt of the complaints.
 - c. The Respondent shall keep OFIR apprised of the status of any new investigations, public or private, brought against the Respondent and shall provide to OFIR a copy of all pleadings, judgment, awards or orders filed in furtherance of each action.
7. Respondent shall structure his business practices so that customer/client funds are segregated in a separate account that shall be designated "customer/client escrow". Respondent shall provide monthly account statements for this account in compliance with his quarterly reporting requirements for the two year reporting period.
8. Respondent shall structure his business practices so that all insurance policies written will be on a direct billed basis by the carrier when available. If direct billing is not available, Respondent shall inform OFIR of the carrier, customer/client and shall keep an accurate accounting of funds received and disbursed.

9. This Consent Order concludes the investigation by OFIR and any other action that OFIR could commence under the Code on behalf of the State of Michigan as it relates to the Respondents in connection with the Complaint filed by OFIR, docket number 2010-1118.
10. This Consent Order is entered into solely for the purpose of resolving the referenced investigation, and is not intended to be used for any other purpose, and its findings and conclusions shall not constitute admissions on the part of Respondents for any purpose. The Respondent is further prohibited from taking any action, publically or privately, creating the impression that the violations are without factual basis and failure to comply with this prohibition constitutes a material default of this Consent Order.
11. If Respondent defaults in any of his obligations set forth in this Consent Order, OFIR may vacate this Consent Order, at its sole discretion, upon 10 days notice to Respondent and his attorney of record and without opportunity for administrative hearing. In doing so, Respondent agrees that any default of this Consent Order will result in a waiver of any hearing afforded to him under the Code and an automatic revocation of his insurance license will be imposed. _____ [Respondent Initial]
12. This Consent Order shall be construed and enforced in accordance with, and governed by, the laws of the State of Michigan without regard to any choice of law principles.

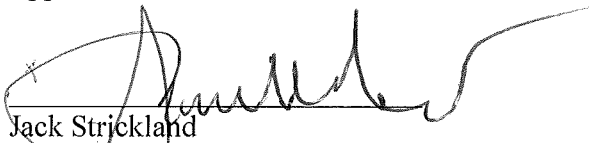
Dated this 25th day of August, 2011.

THE OFFICE OF FINANCIAL AND INSURANCE REGULATION

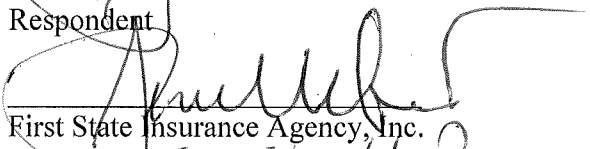

Annette E. Flood
Chief Deputy Commissioner

**IV.
STIPULATION**

I have read and understand the Consent Order above. I agree that the Chief Deputy Commissioner has jurisdiction and authority to issue this Consent Order pursuant to the APA, and Insurance Code. I waive the right to a hearing in this matter if this Consent Order is issued. I understand that this stipulation and Consent Order will be presented to the Chief Deputy Commissioner for approval and the Chief Deputy Commissioner may or may not issue this Consent Order. I waive any objection to the Commissioner deciding this case following a hearing in the event the Consent Order is not approved.



Jack Strickland
Respondent



First State Insurance Agency, Inc.
BY: Jack Strickland
ITS: President
Respondent

Dated: 8/23/11

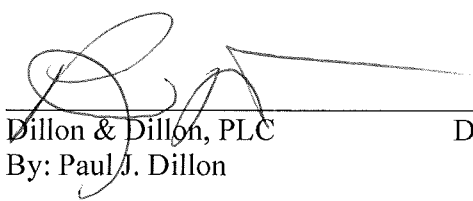
The OFIR staff approves this stipulation and recommends that the Chief Deputy Commissioner issue the above Consent Order.



Elizabeth V. Bolden
OFIR Staff Attorney

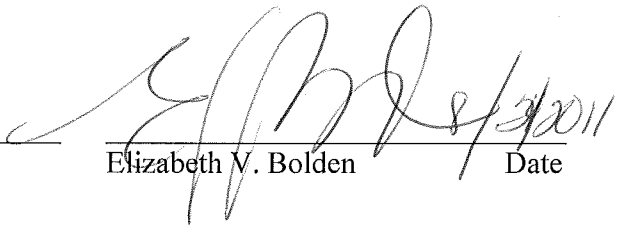
Dated: 8/24/2011

Order Approved as to Content and Form:



Dillon & Dillon, PLC
By: Paul J. Dillon

Date



Elizabeth V. Bolden

Date